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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,593	04/13/2001	Martin Philip Usher	11696. 0059	5641
27890	7590	06/06/2006	EXAMINER	
STEPTOE & JOHNSON LLP 1330 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036			MILLER, BRANDON J	
			ART UNIT	PAPER NUMBER
			2617	
DATE MAILED: 06/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/833,593

Applicant(s)

USHER ET AL.

Examiner

Brandon J. Miller

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-24 and 26-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-24 and 26-30 is/are allowed.
- 6) ☒ Claim(s) 31-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2617

**DETAILED ACTION**

***Response to Amendment***

***Allowable Subject Matter***

Claims 13, 19, 26, and 29 contain allowable subject matter and claims 14-18, 20-24, 27-28, and 30 contain allowable subject matter based on their dependence of independent claims 13, 19, 26, and 29 respectively.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warburton in view of Martensson.

Regarding claim 31 Warburton teaches a method for forwarding incoming telephone communications (see paragraph [0038]). Warburton teaches diverting an incoming call based on divert instructions associated with a telephone number (see paragraph [0038]). Warburton does not specifically teach considering a state of a telephone associated with a telephone number as busy, regardless of an actual state of the telephone and regardless of a source of an incoming telephone call. Martensson teaches considering a state of a telephone associated with a telephone number as busy, regardless of an actual state of the telephone (see abstract, col. 6, lines 5-13, and FIG. 5) and regardless of a source of an incoming telephone call (see col. 8, lines 41-43). It would have been obvious to one of ordinary skill in the art at the time the invention was

Art Unit: 2617

made to make the device adapt to include considering a state of a telephone associated with a telephone number as busy, regardless of an actual state of the telephone and regardless of a source of an incoming telephone call because the divert instructions associated with a telephone number can be divert on busy instructions and it would allow for an improved function setting mode of a portable telephone.

Regarding claim 32 Warburton and Martensson teach a device as recited in claim 31 except for receiving a request to divert incoming calls for the telephone number; and the considering is in response to the receiving. Warburton does teach receiving a request to divert incoming calls for the telephone number (see paragraph [0038]). Martensson does teach considering that is in response to receiving a request (see abstract, col. 6, lines 5-13, and FIG. 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include receiving a request to divert incoming calls for the telephone number; and the considering is in response to the receiving because this would allow for an improved function setting mode of a portable telephone.

Regarding claim 33 Warburton teaches a request identifies one of a location, a communication system, or a telephone number that incoming calls are to be directed to (see paragraph [0038]).

Regarding claim 34 Warburton and Martensson teach a device as recited in claim 32 except for considering in response to a request; associating in response to a request, a primary diversion instruction with the telephone number. Warburton does teach diversion instructions associated with a telephone number (see paragraph [0038]). Martensson does teach considering in response to a request (see col. 7, lines 33-35). Martensson does teach associating, in response

Art Unit: 2617

to the request, a primary instruction with a telephone (see abstract, col. 6, lines 5-13, and FIG. 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include associating in response to a request, a primary diversion instruction with the telephone number because this would allow for an improved function setting mode of a portable telephone.

Claims 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warburton in view of Martensson and Kraft.

Regarding claim 35 Warburton and Martensson teach a device as recited in claim 34 except for modifying any existing divert on busy instructions associated with the telephone number to accommodate the primary diversion instruction. Kraft teaches selecting one of a plurality of possible phone settings associated with the telephone to accommodate a first diversion instruction (see col. 2, lines 60-65, col. 3, lines 38-45, and TABLE 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include modifying any existing divert on busy instructions associated with the telephone number to accommodate the primary diversion instruction because this would allow for an improved function setting mode of a portable telephone.

Regarding claim 36 Warburton and Martensson teach a device as recited in claim 34 except for the primary divert instruction supercedes any existing divert on busy instruction. Kraft teaches a first divert instruction that comes before the selection of any divert phone setting (see col. 2, lines 60-65, col. 3, lines 38-45, and TABLE 1). It would have been obvious to one of obvious skill in the art at the time the invention was made to make the device adapt to include

Art Unit: 2617

the primary divert instruction supercedes any existing divert on busy instruction because this would allow for an improved function setting mode of a portable telephone.

***Response to Arguments***

Applicant's arguments filed 3/16/2006 have been fully considered but they are not persuasive. Regarding claim 31 and 34, the combination of Warburton and Martensson teach a device as claimed. Regarding claim 31 Martensson sets the telephone state to busy based on the telephone number of the incoming call (see col. 7, lines 39-42), not the source of the incoming call. Martensson recites that the invention may be modified for use with telephone apparatuses other than portable telephones (see col. 8, lines 41-43), which would indicate that a call could come from different communication sources. Regarding claim 34 Martensson teaches a request to make the state of a telephone be considered as busy (see col. 7, lines 33-35).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., asserting a busy state for calls if the incoming call was not from a recognized number of the directory) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 2617

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lanzerotti U.S Patent No. 6,324,398 discloses a wireless telecommunications system having airborne base station.

Capone et al. U.S. Patent No. 6,393,281 discloses a seamless hand-off for air-to-ground systems.

Gilhousen U.S Patent No. 5,559,865 discloses an airborne radiotelephone communications system.

Malik U.S Patent No. 6,252,954 discloses a system and method for delaying the ringing of a line.

Young et al. U.S. Patent No. 6,324,405 B1 discloses communication apparatus and method for mobile platforms having a plurality of users.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J. Miller whose telephone number is 571-272-7869.

The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.


Art Unit: 2617

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



May 23, 2006



CHARLES APPIAH  
PRIMARY EXAMINER